

The Honorable Benjamin H. Settle

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

UNITED STATES OF AMERICA,

Plaintiff,

V.

JASON L. KREGER, as Co-Representative of the Estate of Dennis W. Kreger, Sr., deceased; ELLA MAE JACKSON-KREGER, as Co-Representative of the Estate of Dennis W. Kreger, Sr., deceased; JO ANN V. EYRISH; CHRIS S. GILGORE; LAURA L. GILGORE; PACIFIC COUNTY

## Defendants.

Case No. 3:19-cv-05682-BHS

## **ORDER OF FORECLOSURE AND JUDICIAL SALE**

This Order of Foreclosure and Judicial Sale is entered pursuant to the provisions of 28

U.S.C. §§ 2001 & 2002 and 26 U.S.C. §§7402 & 7403. The Court hereby ORDERS as follows:

1. This Order pertains to two parcels of real property located in Pacific County.

Washington (“Subject Properties”), commonly referred to as 16215 Sandridge Road, Long

1 Beach, WA 98631 (“Property I”) and 17805 Sandridge Road, Long Beach, WA 98631  
2 (“Property II”), and is more-particularly described in the United States’ Complaint (Dkt. No. 1,  
3 at ¶ 15, 26).

4 2. The United States has valid and subsisting tax liens on all property and rights to  
5 property of Dennis W. Kreger, Sr., deceased (See Judgment in *United States v. Jason L. Kreger,*  
6 *et al.*, Case No. 3:14-cv-06020-RJB (W.D. Wash.), Dkt. Nos. 15, 17), including the Subject  
7 Properties. The United States protected its interests by filing Notices of Federal Tax Liens and  
8 Abstract of Judgment with the Pacific County Auditor’s Office.

9 3. Dennis W. Kreger, Sr. is the sole owner of Property I.

10 4. Dennis W. Kreger, Sr. is a 50% owner of Property II. Chris S. Gilgore and Laura  
11 L. Gilgore own the remaining 50% of Property II. See Dkt. No. 21.

12 5. Jason L. Kreger has no interest in the Subject Properties.

13 6. 26 U.S.C. §7403 entitles the United States to enforce its liens against the Subject  
14 Properties in order to apply the proceeds towards the tax liabilities of Dennis W. Kreger, Sr.

15 7. 28 U.S.C. § 3201(a) creates a judgment lien in favor of the United States on all  
16 property and interest in property of Dennis W. Kreger Sr.’s Estate, as of that date of the  
17 recording of abstract of judgment.

18 8. The United States’ federal tax liens and judgment lien against the Subject  
19 Properties are hereby foreclosed. The United States Marshal, his/her representative, or an  
20 Internal Revenue Service Property Appraisal and Liquidation Specialist (“PALS”) representative  
21 is authorized and directed under 28 U.S.C. §§ 2001 and 2002 to offer for public sale and to sell  
22 the Subject Properties free and clear of the right, title, and interest of all parties to this action and  
23 any successors in interest or transferees of those parties. The United States may choose either the

1 United States Marshal or a PALS representative to carry out the sale under this Order of  
2 Foreclosure and Judicial Sale and shall make the arrangements for any sales as set forth in this  
3 Order. This Order of Foreclosure and Judicial Sale shall act as a special writ of execution and no  
4 further orders or process from the Court shall be required.

5       9. The United States Marshal, his/her representative, or a PALS representative is  
6 authorized to have free access to the Subject Properties and to take all actions necessary to  
7 preserve the Subject Properties, including, without limitation, retaining a locksmith or other  
8 person to change or install locks or other security devices on any part thereof, until a deed  
9 thereto is delivered to the ultimate purchaser(s).

10      10. In light of the COVID-19 pandemic, it is appropriate to permit mail-in bids as part  
11 of the public auction process for this sale.

12      11. The terms and conditions of the sale are as follows:

13       a. Except as otherwise stated herein, the sale of the Subject Properties shall  
14           be by public auction, by mail-in bid or through in person auction, to the  
15           highest bidder, free and clear of all liens and interests of parties to this  
16           action, with the proceeds of such sale to be distributed in accordance with  
17           the priority of the lienholders set forth in paragraph 16, below.

18       b. The sale shall be subject to all laws, ordinances, and governmental  
19           regulations (including building and zoning ordinances), affecting the  
20           premises, and easements and restrictions of record, if any.

21       c. The sale shall be conducted by mail-in bid, or held at the United States  
22           District Court for the Western District of Washington on the Subject  
23           Properties' premises, or at any other place in accordance with the

1 provisions of 28 U.S.C. §§ 2001 and 2002, at a date and time announced  
2 by the United States Marshal, his/her representative, or a PALS  
3 representative. Opening of mail-in bid forms will occur at the PALS office  
4 location.

5 d. Notice of the sale shall be published once a week for at least four  
6 consecutive weeks before the date fixed for the sale in at least one  
7 newspaper regularly issued and of general circulation in Pacific County,  
8 Washington, and, at the discretion of the Marshal, his/her representative,  
9 or a PALS representative, by any other notice that it or its representative  
10 may deem appropriate. **State or local law notice requirements for**  
11 **foreclosures or execution sales do not apply to the sale under federal**  
12 **law, and state or local law regarding redemption rights do not apply**  
13 **to this sale.** The notice or notices of sale shall describe the Subject  
14 Properties and shall contain the material terms and conditions of sale in  
15 this Order of Foreclosure and Sale. If the sale is conducted via mail-in bid,  
16 all bids are to be received by PALS no later than 11:00 am the day of the  
17 sale.

18 e. The minimum bid will be set by the Internal Revenue Service. If the  
19 minimum bid is not met or exceeded, the Marshal, his/her representative,  
20 or a PALS representative may, without further permission of this Court,  
21 and under the terms and conditions in this Order of Foreclosure and  
22 Judicial Sale, hold new public sales, if necessary, and reduce the minimum  
23 bid or sell to the highest bidder.

1 f. Bidders shall be required to deposit, at the time of sale, under mail-in bid  
2 or via in-person auction, with the Marshal, his/her representative, or a  
3 PALS representative, a minimum of 10 percent of the bid, with the deposit  
4 to be made by a certified or cashier's check payable to the United States  
5 District Court for the Western District of Washington. If the sale is  
6 conducted via mail-in bid, the deposit is to be provided with the bid and  
7 will be returned if the bid is not accepted. Before being permitted to bid at  
8 the sale, whether by mail-in bid or public auction, bidders shall display to  
9 the Marshal, his/her representative, or a PALS representative satisfactory  
10 proof of compliance with the deposit requirement.

11 g. Each mail-in bid will be deemed to make a first bid of the minimum bid  
12 specified by PALS. Each mail-in bid must also specify the maximum bid  
13 the bidder wishes to make. Failure to specify a maximum bid will result in  
14 the bid being invalid, and the PALS shall return the bid and deposit to the  
15 bidder.

16 h. If the PALS receives at least two valid mail-in bids, the winning bidder  
17 shall be the one with the highest maximum bid, and the sales price will be  
18 the lesser of (1) the second-highest maximum bid plus \$1,000, or (2) the  
19 highest maximum bid.

20 i. If two or more different mail-in bidders specify the same maximum bid  
21 and that maximum bid is the highest maximum bid, the PALS may,  
22 without further authorization from the Court, solicit further mail-in bids  
23 from all such bidders until a single bidder has the highest maximum bid.

- j. The balance of the purchase price of the Subject Properties in excess of the deposit tendered shall be paid to the Marshal or a PALS representative (whichever person is conducting the sale) within 30 days after the date the bid is accepted, by a certified or cashier's check payable to the United States District Court for the Western District of Washington. If the successful bidder or bidders fails to fulfill this requirement, the deposit shall be forfeited and shall be applied to cover the expenses of the sale, including commissions due under 28 U.S.C. §1921(c), with any amount remaining to be applied first to the federal tax liabilities of Dennis W. Kreger, Sr. The Subject Properties shall be again offered for sale under the terms and conditions of this Order of Foreclosure and Judicial Sale or, in the alternative, sold to the second-highest bidder. The United States may bid as a credit against its judgment without tender of cash.
- k. The sale of the Subject Properties shall not be final until confirmed by this Court. The Marshal or a PALS representative shall file a report of sale with the Court within 30 days from the date of receipt of the balance of the purchase price.
- l. Upon confirmation of the sale, the Marshal or PALS representative shall promptly execute and deliver a deed of judicial sale conveying the Subject Properties to the purchaser or purchasers.
- m. Upon confirmation of the sale or sales, the interests of, liens against, or claims to the Subject Properties held or asserted by the United States and any other parties to this action or any successors in interest or transferees

1 of those parties shall be discharged and extinguished. The sale is ordered  
2 pursuant to 28 U.S.C. §2001. **Redemption rights under state or local**  
3 **law shall not apply to this sale under federal law.**

4 n. Upon confirmation of the sale, the purchaser or purchasers are responsible  
5 for having the Recorder of Deeds of Pacific County, Washington cause the  
6 transfer of the Subject Properties to be reflected in the Pacific County  
7 property records.

8 12. Until the Subject Properties is sold, the Estate of Dennis W. Kreger, Sr. shall take  
9 all reasonable steps necessary to preserve the Subject Properties (including all buildings,  
10 improvements, fixtures, and appurtenances thereon) including, without limitation, maintaining  
11 fire and casualty insurance policies on the Subject Properties. It shall keep current in paying real  
12 property taxes as they are assessed by Pacific County. It shall not commit waste against the  
13 Subject Properties, nor shall he cause or permit anyone else to do so. It shall not do anything that  
14 tends to reduce the value or marketability of the Subject Properties, nor shall he cause or permit  
15 anyone else to do so. It shall not record any instruments, publish any notice, or take any other  
16 action that may directly or indirectly tend to adversely affect the value of the Subject Properties  
17 or that may tend to deter or discourage potential bidders from participating in the public sale, nor  
18 shall he cause or permit anyone else to do so. In addition, Chris S. Gilgore and Laura L. Gilgore  
19 shall have the same obligations concerning Property II. **Violation of this paragraph shall be**  
20 **deemed a contempt of Court and punishable as such.**

21 13. All persons occupying the Subject Properties shall leave and vacate permanently  
22 the property no later than 15 days after the date of this Order, each taking with them his or her  
23 personal property (but leaving all improvements, buildings, fixtures, and appurtenances) when

1 leaving and vacating. If any person fails or refuses to leave and vacate the Subject Properties by  
2 the time specified in this Order, the United States Marshal's Office or his/her representative is  
3 authorized to take whatever action it deems appropriate to remove such person or persons from  
4 the premises, whether or not the sale of such property or properties is being conducted by a  
5 PALS representative. If any person fails or refuses to remove his or her personal property from  
6 the Subject Property by the time specified herein, the personal property remaining at the Subject  
7 Properties thereafter is deemed forfeited and abandoned, and the United States Marshal's Office,  
8 his/her representative, or the PALS representative is authorized and directed to remove and  
9 dispose of it in any manner they see fit, including sale, in which case the proceeds of sale are to  
10 be applied first to the expenses of sale, and then to the tax liabilities at issue herein.

11       14. Notwithstanding the terms of the immediately preceding paragraph, if, after the  
12 sale of the Subject Properties are confirmed by this Court, the Subject Properties remains  
13 occupied, a writ of assistance may, without further notice, be issued by the Clerk of Court  
14 pursuant to Rule 70 of the Federal Rules of Civil Procedure to compel delivery of possession of  
15 the Subject Properties to the purchaser or purchasers thereof.

16       15. If any person occupying the Subject Properties vacates the Subject Properties  
17 prior to the deadline set forth in Paragraph 13, above, such person shall notify counsel for the  
18 United States no later than two business days prior to vacating the property of the date on which  
19 he or she is vacating the property. Notification shall be made by leaving a message for counsel  
20 for the United States, Rika Valdman, at (202) 514-6056.

21       16. The Marshal, his/her representative, or a PALS representative, shall deposit the  
22 amount paid by the purchaser or purchasers into the registry of the Court. Upon appropriate  
23 motion for disbursement or stipulation of the parties, the Court will disburse the funds in

1 accordance with the Stipulations between the United States and Pacific County, and the United  
2 States and Chris S. Gilgore and Laura Gilgore (Dkt. Nos. 18, 21).

3 IT IS SO ORDERED.  
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5 Dated this 28th day of October, 2020.  
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9 BENJAMIN H. SETTLE  
10 United States District Judge  
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15 Respectfully presented by:  
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17 RICHARD E. ZUCKERMAN  
18 Principal Deputy Assistant Attorney General  
19

20 /s/ Rika Valdman  
21 RIKA VALDMAN  
22 Trial Attorney, Tax Division  
23 U.S. Department of Justice  
P.O. Box 683  
Washington, D.C. 20044-0683  
Telephone: 202-514-6056  
Fax: 202-307-0054  
[rika.valdman@usdoj.gov](mailto:rika.valdman@usdoj.gov)

24 Attorneys for the United States of America  
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